

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Flint Million,

Court File No.: _____

Plaintiff,

v.

**DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES**

Life Wellness Center, Inc., a
Minnesota business corporation,

Defendant.

Defendant Life Wellness Center, Inc. ("Life Wellness"), as and for its Answer to Plaintiff's Complaint, admits, denies and alleges as follows:

1. Except as hereinafter specifically admitted or alleged, Life Wellness denies each and every allegation contained in Plaintiff's Complaint.

2. The allegations contained in Paragraphs 1, 2, 3, 4, 5 and 6 of the Complaint are introductory in nature, and, therefore, require no response. To the extent the allegations contained in said Paragraphs are construed to be allegations of fact, liability and/or law against Life Wellness, or otherwise require a response, the same are denied unless expressly admitted herein.

3. The allegations contained in Paragraphs 7 and 8 of the Complaint are declarations as to jurisdiction and venue, which require no response. To the extent said allegations are construed to be allegations of fact, liability and/or law against Life Wellness, however, the same are denied. Life Wellness further states that it has removed the matter from the First Judicial District of the State of Minnesota to the United States District Court, District of Minnesota.

4. Life Wellness lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations set forth in Paragraph 9 of the Complaint, and, therefore, denies the same. Life Wellness denies the remaining allegations in said Paragraph, as they call for legal conclusions.

5. Life Wellness lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraphs 10 and 11 of the Complaint, and, therefore, denies the same.

6. As to the allegations in Paragraph 12 of the Complaint, Life Wellness only admits that it is a Minnesota corporation with its principal place of business located in Lakeville, Minnesota; it is the owner of real property and improvements commonly referred to as the Life Wellness Center; and it maintains a website located at <http://www.lifewellnesscenter.net>. Life Wellness denies the remaining allegations in said Paragraph.

7. Life Wellness denies the allegations in Paragraph 13 as stated.

8. The allegations in Paragraphs 14, 15 and 16 of the Complaint claim to set forth the legislative history of the ADA and a description of Title III of the ADA, and require no response. To the extent said allegations misstate the law, misstate its legislative history, or are construed to be allegations of fact, liability and/or law against Life Wellness, the same are denied.

9. Life Wellness lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraphs 17, 18, 19, 21, and 22 of the Complaint, and, therefore, denies the same

10. As to the allegations in Paragraph 20 of the Complaint, the allegations are not directed at Life Wellness, and, therefore, do not require a response. To the extent the allegations are construed to be allegations of fact or liability against Life Wellness, they are denied.

11. As to the allegations in Paragraph 23 of the Complaint, Life Wellness lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of said Paragraph, and, therefore, denies said allegations. Life Wellness also denies the remaining allegations in Paragraph 23.

12. Life Wellness denies the allegations in Paragraphs 24, 25, 26, 27, 28, 31, 34, 35, 36, 37, 38, 41, 44, 45, 46, 47 and 48.

13. With respect to the allegations in Paragraphs 29 and 39 of the Complaint, Life Wellness only admits that they are allegations of previously pled Paragraphs to which Life Wellness has already responded. Accordingly, Life Wellness incorporates its answers to said Paragraphs, as if fully set forth herein. To the extent that a separate answer is deemed to be required, Life Wellness denies the allegations in said Paragraphs.

14. The allegations in Paragraphs 30, 32, 33, 40, 42 and 43 of the Complaint claim to restate the identified law therein, and require no response. To the extent said allegations misstate the law, or are construed to be allegations of fact, liability and/or law against Life Wellness, the same are denied.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Insufficient service of process.
3. The underlying website is not a place of public accommodation under the ADA.
4. Insufficient process.

5. The requisite connection or nexus between Life Wellness' physical locations and the underlying website do not exist.

6. Plaintiff's claims may be barred in whole or in part by the applicable statutes of limitation.

7. Plaintiff's claims may be barred in whole or in part by the doctrines of waiver, laches, excuse, unclean hands, and/or estoppel.

8. Even if the underlying website is found to be a place of public accommodation, the underlying website is exempt from the obligation to provide auxiliary aids or services under 42 U.S.C. § 12182(b)(2)(A)(iii), as any modification of practices or steps to provide auxiliary aids and services would fundamentally alter the nature of any goods, services, privileges, advantages and accommodations offered by Life Wellness, or would result in an undue burden.

9. In the alternative, even if the underlying website is found to be a place of public accommodation, Life Wellness already provides a sufficient reasonable accommodation, and, therefore, Plaintiffs' claims must be dismissed.

10. The proposed modification may not be readily achievable and is not necessary.

11. As a separate and alternative affirmative defense to the claims in Plaintiff's Complaint, Life Wellness alleges that the claims contained in the Complaint may be barred by any or all of the affirmative defenses contemplated by the Federal Rules of Civil Procedure. The extent to which Plaintiff's claims may be barred by one or more of said defenses, not specifically set out above, cannot be determined until Life Wellness has had an opportunity to complete discovery. Therefore, Life Wellness incorporates all said affirmative defenses, as if fully set forth herein.

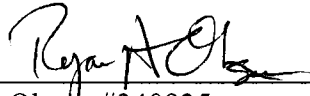
WHEREFORE, Life Wellness prays for an Order:

1. Dismissing Plaintiff's Complaint in its entirety with prejudice;
2. Awarding Life Wellness statutory and other permissible costs it incurs in defending against this action; and
3. For such other and further relief the Court deems just and proper.

Dated: November 4, 2013.

FELHABER, LARSON, FENLON & VOGT, P.A.

By: _____



Ryan A. Olson, #340935
220 South Sixth Street, Suite 2200
Minneapolis, Minnesota 55402
Telephone (612) 339-6321
ATTORNEYS FOR DEFENDANTS